

1 discussion?

2 A. I don't know.

3 Q. We mentioned Monroe Communications and that  
4 you were a 10 percent owner of Monroe  
5 Communications. When did you become a 10 percent  
6 owner of Monroe Communications approximately?

7 MR. COLE: Objection. What relevance is  
8 that? How is this even calculated to lead to the  
9 discovery of evidence?

10 MR. HUTTON: Do you want to excuse the  
11 witness and I'll discuss it with you.

12 MR. COLE: Sure.

13 (Witness excused.)

14 MR. HUTTON: It has to do with the  
15 motivations underlying this application.

16 MR. COLE: What do the motivations have to  
17 do with anything? Why is that relevant to the  
18 comparative issue?

19 MR. HUTTON: It's relevant because you're  
20 asking to be considered as an applicant that will  
21 build a tower, operate a certain way, and if that's  
22 not going to happen, the FCC is entitled to know

1 about that. It didn't happen with respect to Adams  
2 Communications, and so the question arises whether it  
3 will happen with -- it didn't happen with Monroe  
4 Communications, so the question arises whether it  
5 will happen with Adams.

6 MR. COLE: If you want to call the judge  
7 and ask him and make this argument to him, I'm happy  
8 to participate in that. That would be great. I  
9 would like to hear that.

10 MR. HUTTON: All right.

11 (A recess was taken, after which the  
12 following proceedings were had.)

13 MR. HUTTON: We've attempted to reach the  
14 administrative law judge for a ruling on the  
15 relevance or potential relevance of a line of  
16 questioning. He is unavailable at this point.

17 We believe that he and his assistant are at  
18 lunch and will be available shortly so we're going to  
19 recess until, let's see, a quarter to 12 our time.

20 MR. COLE: Sure, that's fine.

21 MR. HUTTON: Okay.

22 MR. COLE: The witness will remain around

1 because the witness apparently would have to travel  
2 30 miles out and 30 miles back, so he will remain in  
3 the offices or in the immediate vicinity, but he's  
4 still subject to the sequestration order, so that is  
5 to say --

6 THE WITNESS: I understand.

7 MR. COLE: Right.

8 THE WITNESS: Quarter of 1.

9 MR. HUTTON: Quarter of 12.

10 (A recess was taken, after which the  
11 following proceedings were had.)

12 BY MR. HUTTON:

13 Q. Mr. Fickinger, you previously mentioned  
14 that you had been a 10 percent stockholder in Monroe  
15 Communications?

16 A. Yes.

17 MR. COLE: Excuse me. Before you go on,  
18 can we just state that we conferred -- did you take  
19 that conference down on the record?

20 THE COURT REPORTER: No, I did not.

21 MR. HUTTON: Okay.

22 MR. COLE: That we had a conference call

1 with the judge and that the judge has, as I  
2 understand it, and Mr. Hutton can correct me if I  
3 misspeak, that the judge has ruled that Mr. Hutton is  
4 entitled to cross-examine Mr. Fickinger about Monroe  
5 matters, but for no more than 30 minutes.

6 MR. HUTTON: That's correct.

7 THE WITNESS: Okay.

8 MR. HUTTON: It's approximately -- I have  
9 about 13 after.

10 MR. COLE: I got a clock running on it  
11 so --

12 MR. HUTTON: Okay.

13 Q. How did you come to be involved in Monroe  
14 Communications?

15 A. Once again, Bob Haag and I worked together  
16 in business since 1963, and I was contacted by him,  
17 just wanted to know if I was interested in this, and  
18 that's how it happened.

19 Q. Did he explain to you how he had heard  
20 about the opportunity to file an application?

21 A. I'm only hesitating because we had some  
22 conversations. I don't know at that time whether he

1 did or not.

2 Q. Did you later learn how he came to find out  
3 about this opportunity?

4 A. Yes.

5 Q. What did he tell you?

6 A. That he had been watching the station and  
7 he was very unhappy with what he saw on the station  
8 and thought someone should try to do something about  
9 it for the public interest.

10 Q. What was it about the programming of the  
11 station that he found disturbing?

12 A. As I recall, minimum public service  
13 announcements, minimum participation by the station  
14 in the community, those two key things.

15 Q. And did he indicate plans as to how he  
16 would program the station if Monroe were successful?

17 A. No.

18 Q. Did you have any understanding as to what  
19 Monroe would do to improve the situation if Monroe  
20 were successful?

21 A. I don't know if understanding is the right  
22 word, but I felt as though that the Hispanic side was

1 really something that should be continued. That was  
2 my feeling, and I don't know exactly how it all fell  
3 together, because I'm sure I didn't think of it, but  
4 that's what we ended up doing.

5 Q. I'm sorry, when you say that's what we  
6 ended up doing, what does that mean?

7 A. That was our plan, that was our plan to  
8 continue the Hispanic programming once we acquired  
9 the operation of the station, that's what I mean.

10 Q. When did that plan come into place?

11 A. I must tell you, I really can't tell you.  
12 I just don't know. Relatively early in the game, but  
13 that's all I can say.

14 Q. Was the station operating with subscription  
15 television programming at the time Mr. Haag first  
16 approached you?

17 A. I don't know if it was subscription or  
18 not. It sounds familiar, yes, but I can't be very  
19 articulate on that subject. Yes. It sounds  
20 familiar.

21 Q. And do you know if Mr. Haag had ever been  
22 involved in any similar challenges?

1           A.    I don't know. To the best of my knowledge,  
2   no.

3           Q.    Do you know what he did to pursue the  
4   opportunity to file a competing application?

5           A.    No. I don't think I understand the  
6   question.

7           Q.    Did he hire a law firm, communications law  
8   firm? Did he call the FCC? What do you know about  
9   what he did to put an application into place at the  
10   FCC?

11          A.    I don't know.

12          Q.    And who else became -- who else who is a  
13   party to Adams Communications became involved in the  
14   Monroe Communications application?

15          A.    Well, Howard Gilbert, Manny -- I'm really  
16   sure Manny Steinfeld. I have to just think about it  
17   because that's a few years ago.

18          Q.    Sure.

19          A.    Black football player, Ike somebody.

20          Q.    Mr. Hill?

21          A.    Ike Hill, right. Could you repeat the  
22   question.

1 Q. Yeah. Who among the people who are  
2 involved in Adams Communications who was involved  
3 previously in Monroe Communications --

4 A. I see.

5 Q. -- to your knowledge?

6 MR. COLE: Excuse me. Can I just suggest  
7 that if you want, you can show him the Adams  
8 application and that would help to refresh his  
9 recollection.

10 MR. HUTTON: If you want to do that, that  
11 would be fine.

12 MR. COLE: Okay. I'm showing the witness  
13 that which was identified as I believe Fickinger  
14 Exhibit 1, I think.

15 MR. HUTTON: Yes.

16 MR. COLE: Which is the Adams  
17 application.

18 THE WITNESS: Well, Bob Haag, Howard  
19 Gilbert.

20 BY MR. HUTTON:

21 Q. I think if you stick to the page Mr. Cole  
22 initially suggested, it lists the people.



1 MR. COLE: That's what he was going  
2 through.

3 MR. HUTTON: I'm sorry. This page.

4 MR. COLE: Oh, okay.

5 THE WITNESS: Umans. Relative to a  
6 question you asked me before, Cal Leibovitz, I didn't  
7 know that he was, but he's Adams as well as -- I  
8 don't know Talmadge Hill. Oh, that must be Ike.

9 BY MR. HUTTON:

10 Q. Yes.

11 A. I know Ike. I don't know Elinor Woron.

12 MR. COLE: But the question is -- I'm  
13 sorry. Your question is which of these people were  
14 principals of Monroe?

15 MR. HUTTON: Of Monroe, right.

16 THE WITNESS: Ike Hill, Milt Podolsky.

17 BY MR. HUTTON:

18 Q. Of the people who are principals of Adams  
19 who are not principals of Monroe, do you know how  
20 they came to be principals of Adams?

21 A. No, I don't.

22 Q. With respect to the Monroe Communications

1 application, did Mr. Haag play essentially the same  
2 role he has played with respect to the Adams  
3 Communications application?

4 A. As far as I know.

5 Q. And the same question for Mr. Gilbert?

6 A. Yes.

7 Q. What was the outcome of the Monroe  
8 Communications case?

9 A. Well, as far as I know the outcome was  
10 agreement, a settlement between the station and  
11 Monroe.

12 Q. And did Monroe agree to dismiss its  
13 application in exchange for a payment of money?

14 A. I can't answer that specifically. I mean  
15 from what you have just said, I don't know if the  
16 agreement was that bald.

17 MR. HUTTON: We'll make this Fickinger  
18 Exhibit 3.

19 (Document marked as Fickinger Deposition  
20 Exhibit No. 3 for identification.)

21 Q. Mr. Fickinger, this is a copy of an order  
22 of the Federal Communications Commission released

1 December 24, 1992 in the Monroe Communications case.  
2 In paragraph 3 of that order, it states the parties  
3 now propose to settle this case. Under the terms of  
4 the settlement, Video 44's application would be  
5 renewed and Monroe would dismiss its application in  
6 return for payments totaling \$17,676,424 plus  
7 interest. Does that fairly summarize the outcome of  
8 the case?

9 A. Yes.

10 Q. And can you tell me why Monroe agreed to  
11 dismiss its application?

12 A. No, I really can't tell you why.

13 Q. Were you consulted in the decision to  
14 dismiss the application?

15 A. Yes.

16 Q. Did you concur in that decision?

17 A. Yes, I did.

18 Q. Why did you concur in that decision?

19 A. Primarily because I could see a problem.  
20 We were led to believe by Harriscope that insofar as  
21 getting the station into operation, that they would  
22 be of no help whatsoever. In other words, we would

1 have to start out with a new antenna. We would have  
2 to start out with new equipment and a new building,  
3 and I saw a difficulty in getting that done in the  
4 required one year to get the station on the air  
5 again.

6 Q. Well, when you initially filed the  
7 application, wasn't it your understanding that Monroe  
8 would have to build a new station?

9 A. Yeah. It wasn't necessarily that we would  
10 have to build a new station. It was conceivable, of  
11 course, in everybody's mind that we could buy the  
12 equipment and all the material there.

13 Q. But you had no agreement to that effect,  
14 did you?

15 A. No.

16 Q. You had no discussions with -- was it  
17 Harriscope?

18 A. That's what it says in this.

19 Q. You had no discussions with Harriscope to  
20 that effect, did you?

21 A. I don't know. I didn't, but I don't know.

22 Q. Who was it that advised you that there was

1 a one-year period for building the station?

2 A. To the best of my recollection, it was  
3 Howard Gilbert who was reciting I think the  
4 Communications Act of 1934 or something. That's to  
5 the best of my recollection.

6 Q. Did he indicate that this was a change in  
7 policy from what had been the case previously?

8 A. I don't remember any kind of a comment to  
9 that extent, no.

10 Q. Do you know if in filing the Monroe  
11 application whether Monroe had specified or proposed  
12 the use of the existing station facilities or whether  
13 Monroe had proposed to build its own facilities in  
14 the FCC application?

15 A. I don't know the answer to that question.

16 Q. Do you know if there were people who were  
17 principals of Monroe who were asked to become  
18 principals of Adams but declined?

19 A. I don't know.

20 Q. Do you know which law firm represented  
21 Monroe before the FCC?

22 A. Well, I guess it was not Holleb & Coff. I

1 don't know. There was a law firm and I can't recall  
2 the name of it to be honest with you. I just don't  
3 know.

4 Q. Do you know if Mr. Cole was involved in  
5 that representation?

6 A. I don't remember.

7 Q. With respect to the proposed programming,  
8 do you know if Monroe was planning to operate as an  
9 affiliate of a Hispanic network or to air independent  
10 Hispanic programming?

11 A. We had talked with several, I'm going to  
12 call it Hispanic network operations, and that was --  
13 as I recall, that was to be part of our plan, to use  
14 one of those two.

15 Q. Do you know which network operations those  
16 were?

17 A. Telemundo is one, and it starts with a U.

18 Q. Would it be Univision?

19 A. Yeah, I think so.

20 Q. But I take it from your prior testimony  
21 that there has been no similar discussion with either  
22 of those networks with respect to the Adams

1 Communications application?

2 A. To the best of my knowledge.

3 Q. And do you recall how much money you  
4 received as a result of the settlement of the Monroe  
5 Communications case?

6 MR. COLE: Once again, let me interpose an  
7 objection because I believe -- I don't have a copy of  
8 the agreement here, but I believe the settlement  
9 agreement imposes a confidentiality restriction on  
10 the parties to the agreement. I'm willing -- I'd be  
11 happy to stipulate to you that the Commission's order  
12 is accurate or reflects my understanding of the terms  
13 of the agreement, but I just don't want to get the  
14 witness involved in a breach of any obligations that  
15 may be imposed, and I have not read the agreement  
16 recently. But I believe there may be a  
17 confidentiality agreement there.

18 MR. HUTTON: My question is in conflict  
19 with that?

20 MR. COLE: Again, I'm willing to stipulate  
21 to what the terms were and obviously it's a matter of  
22 public record in any Commission's order and it's

1 already an exhibit here before the witness.

2 MR. HUTTON: I'm asking a different  
3 question. I'm asking what he received as a result.

4 MR. COLE: I'm sorry. What he personally  
5 received. Okay. I'm sorry.

6 MR. HUTTON: Yes.

7 MR. COLE: I take that back. No  
8 objection.

9 THE WITNESS: I can't give you the  
10 specific amount. It was 10 percent. Really, that's  
11 about all I can say.

12 BY MR. HUTTON:

13 Q. But it's 10 percent net of expenses?

14 A. Oh, no. After expenses were -- as I  
15 understand it, after expenses were deducted. It was  
16 10 percent of the net.

17 Q. I'm confused. Did Monroe pay its expenses  
18 as the case went along and then you received 10  
19 percent of the 17 plus million dollar settlement, is  
20 that what you mean?

21 A. I don't know. I don't know.

22 Q. Do you recall in the Adams Communications



1 case, this case, do you recall receiving capital  
2 calls periodically from Mr. Gilbert?

3 A. Yes.

4 Q. During the Monroe Communications case, did  
5 you receive similar periodic capital calls?

6 A. Yes.

7 Q. And is it your understanding that the  
8 purpose of those capital calls was to pay expenses as  
9 the case progressed?

10 A. Yes.

11 Q. So do you recall if there were any  
12 particular expenses to be paid out of the proceeds of  
13 the distribution of funds in the settlement?

14 A. That's what makes it difficult for me to  
15 answer your question, I can't recall that. I don't  
16 know.

17 MR. HUTTON: I have nothing further.

18 MR. COLE: Can we stipulate that the 30  
19 minutes is not cumulative, you don't get the extra  
20 ten? I only have one question, just to clean-up, one  
21 brief area of questioning.

22

1 EXAMINATION

2 BY MR. COLE:

3 Q. Mr. Fickinger, Mr. Hutton asked you at one  
4 point whether you had provided in connection with the  
5 Adams application a copy of a balance sheet or  
6 financial statement to anyone. Do you recall  
7 testifying -- do you recall that question, that he  
8 asked you whether you provided a balance sheet?

9 A. Yeah.

10 Q. I just want to clarify your statement or  
11 make sure I understand your statement. Is it your  
12 testimony that you did not provide a balance sheet or  
13 that you do not recall whether you provided a balance  
14 sheet?

15 A. I may have, I may have not. I don't  
16 recall.

17 MR. COLE: Okay. That's all I have.

18 EXAMINATION (Further)

19 BY MR. HUTTON:

20 Q. Do you recall the last time you ever  
21 prepared a personal financial balance sheet?

22 A. For myself or for --

1           Q.   For any purpose whatsoever with respect to  
2   your personal net worth.

3           A.   No, I can't recall that.

4           Q.   Do you recall having done one within the  
5   last ten years?

6           A.   Yes.

7           Q.   Do you recall what that was in connection  
8   with?

9           A.   No, I can't. I don't know.

10          Q.   To the best of your recollection, was it in  
11   connection with this case?

12          A.   Of this --

13          Q.   The Adams Communications case.

14          A.   It could very well have been. I just have  
15   a difficulty recalling it. This is such a long time  
16   ago.

17          Q.   Do you recall providing the balance sheet  
18   to Mr. Gilbert?

19          A.   No, I don't recall that.

20          Q.   Do you recall providing it to any other  
21   principals of Adams Communications?

22          A.   No.

1 Q. Do you recall if the balance sheet that you  
2 prepared may have been related to your retirement  
3 from Bozell?

4 A. No, I'm sure it was not, no.

5 Q. Do you recall if it was provided to a  
6 financial consultant or a broker that you employ?

7 A. I'm reasonably sure it wasn't that. The  
8 financial man I employ does these on his own. It's  
9 part of his job in monitoring my activity.

10 Q. Do you know if he ever provided a balance  
11 sheet to any principal of Adams Communications?

12 A. I don't think so, but I can't be ironclad  
13 positive.

14 Q. Do you recall instructing him to provide  
15 such a balance sheet?

16 A. No, I don't, no.

17 MR. HUTTON: I have nothing further.

18 MR. COLE: That's it for me.

19 MR. HUTTON: Back on at 1:30.

20 MR. COLE: That's fine. We are not going  
21 to waive signature.

22

1 UNITED STATES OF AMERICA )

2 ss:

3 STATE OF ILLINOIS )

4 I, RENEE E. BRASS, RPR, CSR, and Notary  
5 Public within and for the State of Illinois do hereby  
6 certify:

7 That the witness whose deposition is  
8 hereinbefore set forth, was duly sworn and that the  
9 within transcript is a true record of the testimony  
10 given by such witness.

11 I further certify that I am not related to  
12 any of the parties to this action by blood or  
13 marriage and that I am in no way interested in the  
14 outcome of this matter.

15 IN WITNESS WHEREOF, I have  
16 hereunto set my hand this 22nd day of October 1999.

17

18

19

20

\_\_\_\_\_  
Renee E. Brass

21 My Commission Expires:

22 February 7, 2001

1                   INSTRUCTIONS TO THE WITNESS

2                   Read your deposition over carefully. It is  
3 your right to read your deposition and make any  
4 changes in form or substance. You should assign the  
5 reason for any change made in the appropriate column  
6 on the errata sheet which follows.

7                   After completing this procedure, please  
8 sign your name at the end of the errata sheet and  
9 date same. Then sign your deposition at the end of  
10 your testimony in the space provided.

11                  You are signing it subject to the changes  
12 you have made in the errata sheet which will  
13 accompany the deposition. Unless otherwise agreed to  
14 by counsel to this deposition, you must sign the  
15 deposition before a notary public.

16                  Return the original errata sheet and  
17 transcript to the deposing attorney (attorney asking  
18 questions) promptly! Court rules require this  
19 process be completed within 30 days after you receive  
20 the deposition. Thank you.

21

22

## 1 ERRATA SHEET

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22 WITNESS \_\_\_\_\_ DATE \_\_\_\_\_

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## **EXHIBIT D**